IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4284 of 2006()

ST.4264/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

REVN. PETITIONER: COMPLAINANT:

MANAPPURAM GENERAL FINANCE AND
LEASING LTD., MANAPPURAM HOUSE,
VALAPAD P.O., THRISSUR DISTRICT, REPRESENTED BY
BENNI THOMAS, ASSISTANT MANAGER-LEGAL OF THE
COMPANY.

BY ADV. SRI.P.K.MANOMOHANAN

RESPONDENTS: ACCUSED & STATE:
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1. NAZIR A.A.,
S/O.ABU, AMBALATHUVEETIL HOUSE,
BABY ROAD, MANATHALA, CHAVAKAD,
THRISSURE DISTRICT

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

CRL.R.P.NO. 4284 OF 2006

Dated this the 7th day of December,2006

O R D E R

The petitioner filed a complaint against the first respondent alleging offence under Section 138 of the Negotiable Instruments Act. By the order dated 11th August, 2006, the court below dismissed the complaint under Section 204(4) of the Code of Criminal Procedure on the ground that the postage for issue of summons was not paid. That order is impugned in this Revision.

2. It is stated in paragraph 2 of the statement of facts in the Revision thus:

> ".. As the accused was not responded to the summons, the Hon'ble Magistrate was pleased to issue a warrant to the accused through the Chavakad Police Station. But the Police of Chavakad Police station has failed to arrest the accused or return the warrant. Therefore, the Hon'ble Magistrate was pleased to issue summons to the Head Constable of the Police Station and the matter posted to 11/8/2006."

It is also stated in the Memorandum of Revision that the process fee was paid on 17.7.2006.

In the facts and circumstances of the case, I am of the view that an opportunity should be given to the petitioner to pay the process fee, if he has not already paid the same, and take all necessary steps which are required under law. The order impugned is set aside. The petitioner shall appear before the trial court on 18.12.2006 and take all necessary steps on or before 21.12.2006. The court below shall proceed in accordance with law.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

CRL.M.C.NO. OF

O R D E R

September, 2006